IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 58 of 2006 (O&M)

Date of Decision : 07.08.2006

Prabhu Nath Tiwari ...Appellant

Versus

Bhupinder Singh and others ... Respondents.

CORAM : HON'BLE MR. JUSTICE UMA NATH SINGH
HON'BLE MR. JUSTICE S.D. ANAND

Present : None.

UMA NATH SINGH, J. (ORAL)

This matter was adjourned four times by orders under the signatures of the Court Secretary and thereafter, it was listed on 4th August, 2006. No one appeared but in the interest of justice, it was adjourned for today. Today, also, no one appears.

The filing of the appeal is barred by 48 days' delay. The explanations given for delay in para nos. 3 and 4 of the application, on reproduction, reads as under:-

> "3. That at the time of announcement of judgment dated 15.6.2005 the appellant was not present in the court nor his counsel conveyed the decision to him and thus he did not know about the announcement of the impugned judgment. In this accident the appellant has suffered permanent disability to the extent of 100% qua both of his legs and therefore he is not in a position to move. A few days back somebody was asked to contact his counsel and accordingly now he has come to know about the decision in the case and accordingly engaged Advocate to file appeal before this Hon'ble High Court.
>
> 4. That there was holidays in this Hon'ble High Court from 29th October, 2005 to 6th November, 2005 and therefore, as the courts have opened today this FAO is being filed today."

We do not find any sufficient cause to condone the delay. Moreover, we have also perused the award. The appellant aged about 37 years, has been awarded Rs. 10,00,000/- in an injury case. The appellant was serving in Army and suffered 100% disability. He has been retired with pension of Rs.1872/- per month, at a stage, where he was earning a salary of Rs.6592/-. Besides, it appears that being an army personnel, he was medically treated by Army Medical Core, Command Hospital, Chandimandir. In para 12 of the award, it appears that the disability suffered by him related to the extent of 100% only for both legs and not in respect of the entire body. The Tribunal has taken a liberal view and has awarded Rs.10,00,000/-, with interest at the rate of 6% per annum from the date of filing of the petition. In an identical case, reported in 2005(10) SCC 720 (New India Assurance Co. Ltd. Vs. Charlie and another), where also, the victim was 37 years' old and had suffered 100% disability, the Court only awarded Rs.3,50,000/- with 7.5% interest. Further, in another case reported in 2003(7) SCC, 484 (State of Haryana and another Vs. Jasbir Kaur), Hon'ble the Apex Court has held that the compensation must be just and reasonable, and it should neither be a bonanza nor a source of profit nor a pittance. That apart, as per ratio of the judgment of Hon'ble the Apex Court reported in AIR 1998 SC 2276 (P.K. Ramachandran versus State of Kerala and another), we cannot extend the limitation on equitable ground.

Accordingly, this FAO is dismissed on the ground of delay as well as on merits.

(UMA NATH SINGH)
JUDGE

August 07, 2006
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(S.D. ANAND)
JUDGE